

AMENDED IN ASSEMBLY JUNE 8, 2016

AMENDED IN SENATE APRIL 14, 2016

**SENATE BILL**

**No. 939**

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**Introduced by Senator Monning**

February 3, 2016

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An act to amend Sections 1771, 1788, and 1788.4 of the Health and Safety Code, relating to continuing care contracts.

LEGISLATIVE COUNSEL'S DIGEST

SB 939, as amended, Monning. Continuing care contracts: cancellation: payments.

Existing law requires a continuing care retirement facility, as defined, to possess a certificate of authority issued by the State Department of Social Services before it can enter into a continuing care contract, as defined. Existing law requires that a continuing care contract be in writing and contain specified information. Existing law provides that a continuing care contract may be canceled without cause by written notice from either party within 90 days of the resident's initial occupancy.

Existing law requires a provider to pay, during the cancellation period, all refunds owed to a resident within 14 days after a resident makes possession of the living unit available to the provider. Existing law requires a provider to pay a lump-sum payment that is conditioned upon resale of a unit to a resident within 14 days after resale of the unit.

~~This bill would instead specify that a continuing care retirement facility pay the full lump-sum payment that is conditioned upon resale of a unit to a resident, including any interest accrued, within 14 days after resale of a unit. The bill would require a continuing care retirement facility, for contracts signed after January 1, 2017, to pay a resident or~~

~~his or her estate a specified portion of the full lump sum owed, notwithstanding a provider's documented good-faith effort to resell the unit, if the unit remains vacant 120 days after the resident's termination.~~ *define a repayable contract as a continuing care contract that includes a promise to repay all or a portion of an entrance fee that is conditioned upon reoccupancy or resale of the unit previously occupied by the resident.* The bill would require any amount owed that is not paid to a resident within 180 days *after the resident's termination of a repayable contract* to accrue simple interest at a rate of 4% until the full amount owed is paid. The bill would require any amount owed that is not paid to a resident within 240 days *after the resident's termination of a repayable contract* to accrue simple interest at a rate of 6% until the full amount owed is paid. The bill would require any amount owed that is not paid to a resident within one year after the 240-day period to accrue compound interest annually at a rate of 6% until the amount owed is paid. *The bill would provide that the above-mentioned provisions apply only to repayable contracts entered into on or after January 1, 2017.* The bill would require a facility to pay the lump sum owed, including any interest accrued, to a resident's estate if the resident is deceased. The bill would provide that, until January 1, 2018, these provisions do not apply to specified projects that are in development prior to January 1, 2017, provided that the initial contract for the project is entered into on or before January 1, 2018. The bill would provide that the repayment by a provider of all or a portion of an entrance fee before the resale of a unit would not subject any other entrance fee to the refund reserve requirements, except as provided.

The bill would make corresponding changes to require a continuing care contract to contain a statement that a provider is prohibited from charging the resident or his or her estate a monthly fee once a unit has been permanently vacated by the resident, unless the fee is part of an equity interest contract. The bill would also require a continuing care contract that provides for a refund or repayment of a lump sum of all or part of the entrance fee to include a statement that the provider will make a good-faith effort to reoccupy or resell a unit for which a lump-sum payment is conditioned upon resale of the unit.

Vote: majority. Appropriation: no. Fiscal committee: no.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

1     SECTION 1. Section 1771 of the Health and Safety Code is  
2 amended to read:

3     1771. Unless the context otherwise requires, the definitions in  
4 this section govern the interpretation of this chapter.

5     (a) (1) “Affiliate” means any person, corporation, limited  
6 liability company, business trust, partnership, unincorporated  
7 association, or other legal entity that directly or indirectly controls,  
8 is controlled by, or is under common control with, a provider or  
9 applicant.

10    (2) “Affinity group” means a grouping of entities sharing a  
11 common interest, philosophy, or connection (e.g., military officers,  
12 religion).

13    (3) “Annual report” means the report each provider is required  
14 to file annually with the department, as described in Section 1790.

15    (4) “Applicant” means any entity, or combination of entities,  
16 that submits and has pending an application to the department for  
17 a permit to accept deposits and a certificate of authority.

18    (5) “Assisted living services” includes, but is not limited to,  
19 assistance with personal activities of daily living, including  
20 dressing, feeding, toileting, bathing, grooming, mobility, and  
21 associated tasks, to help provide for and maintain physical and  
22 psychosocial comfort.

23    (6) “Assisted living unit” means the living area or unit within  
24 a continuing care retirement community that is specifically  
25 designed to provide ongoing assisted living services.

26    (7) “Audited financial statement” means financial statements  
27 prepared in accordance with generally accepted accounting  
28 principles, including the opinion of an independent certified public  
29 accountant, and notes to the financial statements considered  
30 customary or necessary to provide full disclosure and complete  
31 information regarding the provider’s financial statements, financial  
32 condition, and operation.

33    (b) (reserved)

34    (c) (1) “Cancel” means to destroy the force and effect of an  
35 agreement or continuing care contract.

36    (2) “Cancellation period” means the 90-day period, beginning  
37 when the resident physically moves into the continuing care

1 retirement community, during which the resident may cancel the  
2 continuing care contract, as provided in Section 1788.2.

3 (3) “Care” means nursing, medical, or other health-related  
4 services, protection or supervision, assistance with the personal  
5 activities of daily living, or any combination of those services.

6 (4) “Cash equivalent” means certificates of deposit and United  
7 States treasury securities with a maturity of five years or less.

8 (5) “Certificate” or “certificate of authority” means the  
9 certificate issued by the department, properly executed and bearing  
10 the State Seal, authorizing a specified provider to enter into one  
11 or more continuing care contracts at a single specified continuing  
12 care retirement community.

13 (6) “Condition” means a restriction, specific action, or other  
14 requirement imposed by the department for the initial or continuing  
15 validity of a permit to accept deposits, a provisional certificate of  
16 authority, or a certificate of authority. A condition may limit the  
17 circumstances under which the provider may enter into any new  
18 deposit agreement or contract, or may be imposed as a condition  
19 precedent to the issuance of a permit to accept deposits, a  
20 provisional certificate of authority, or a certificate of authority.

21 (7) “Consideration” means some right, interest, profit, or benefit  
22 paid, transferred, promised, or provided by one party to another  
23 as an inducement to contract. Consideration includes some  
24 forbearance, detriment, loss, or responsibility, that is given,  
25 suffered, or undertaken by a party as an inducement to another  
26 party to contract.

27 (8) “Continuing care contract” means a contract that includes  
28 a continuing care promise made, in exchange for an entrance fee,  
29 the payment of periodic charges, or both types of payments. A  
30 continuing care contract may consist of one agreement or a series  
31 of agreements and other writings incorporated by reference.

32 (9) “Continuing care promise” means a promise, expressed or  
33 implied, by a provider to provide one or more elements of care to  
34 an elderly resident for the duration of his or her life or for a term  
35 in excess of one year. Any such promise or representation, whether  
36 part of a continuing care contract, other agreement, or series of  
37 agreements, or contained in any advertisement, brochure, or other  
38 material, either written or oral, is a continuing care promise.

39 (10) “Continuing care retirement community” means a facility  
40 located within the State of California where services promised in

1 a continuing care contract are provided. A distinct phase of  
2 development approved by the department may be considered to  
3 be the continuing care retirement community when a project is  
4 being developed in successive distinct phases over a period of  
5 time. When the services are provided in residents' own homes, the  
6 homes into which the provider takes those services are considered  
7 part of the continuing care retirement community.

8 (11) "Control" means directing or causing the direction of the  
9 financial management or the policies of another entity, including  
10 an operator of a continuing care retirement community, whether  
11 by means of the controlling entity's ownership interest, contract,  
12 or any other involvement. A parent entity or sole member of an  
13 entity controls a subsidiary entity provider for a continuing care  
14 retirement community if its officers, directors, or agents directly  
15 participate in the management of the subsidiary entity or in the  
16 initiation or approval of policies that affect the continuing care  
17 retirement community's operations, including, but not limited to,  
18 approving budgets or the administrator for a continuing care  
19 retirement community.

20 (d) (1) "Department" means the State Department of Social  
21 Services.

22 (2) "Deposit" means any transfer of consideration, including a  
23 promise to transfer money or property, made by a depositor to any  
24 entity that promises or proposes to promise to provide continuing  
25 care, but is not authorized to enter into a continuing care contract  
26 with the potential depositor.

27 (3) "Deposit agreement" means any agreement made between  
28 any entity accepting a deposit and a depositor. Deposit agreements  
29 for deposits received by an applicant prior to the department's  
30 release of funds from the deposit escrow account shall be subject  
31 to the requirements described in Section 1780.4.

32 (4) "Depository" means a bank or institution that is a member  
33 of the Federal Deposit Insurance Corporation or a comparable  
34 deposit insurance program.

35 (5) "Depositor" means any prospective resident who pays a  
36 deposit. Where any portion of the consideration transferred to an  
37 applicant as a deposit or to a provider as consideration for a  
38 continuing care contract is transferred by a person other than the  
39 prospective resident or a resident, that third-party transferor shall  
40 have the same cancellation or refund rights as the prospective

1 resident or resident for whose benefit the consideration was  
2 transferred.

3 (6) “Director” means the Director of Social Services.

4 (e) (1) “Elderly” means an individual who is 60 years of age  
5 or older.

6 (2) “Entity” means an individual, partnership, corporation,  
7 limited liability company, and any other form for doing business.  
8 Entity includes a person, sole proprietorship, estate, trust,  
9 association, and joint venture.

10 (3) “Entrance fee” means the sum of any initial, amortized, or  
11 deferred transfer of consideration made or promised to be made  
12 by, or on behalf of, a person entering into a continuing care contract  
13 for the purpose of ensuring care or related services pursuant to that  
14 continuing care contract or as full or partial payment for the  
15 promise to provide care for the term of the continuing care contract.  
16 Entrance fee includes the purchase price of a condominium,  
17 cooperative, or other interest sold in connection with a promise of  
18 continuing care. An initial, amortized, or deferred transfer of  
19 consideration that is greater in value than 12 times the monthly  
20 care fee shall be presumed to be an entrance fee.

21 (4) “Equity” means the value of real property in excess of the  
22 aggregate amount of all liabilities secured by the property.

23 (5) “Equity interest” means an interest held by a resident in a  
24 continuing care retirement community that consists of either an  
25 ownership interest in any part of the continuing care retirement  
26 community property or a transferable membership that entitles the  
27 holder to reside at the continuing care retirement community.

28 (6) “Equity project” means a continuing care retirement  
29 community where residents receive an equity interest in the  
30 continuing care retirement community property.

31 (7) “Equity securities” shall refer generally to large and  
32 midcapitalization corporate stocks that are publicly traded and  
33 readily liquidated for cash, and shall include shares in mutual funds  
34 that hold portfolios consisting predominantly of these stocks and  
35 other qualifying assets, as defined by Section 1792.2. Equity  
36 securities shall also include other similar securities that are  
37 specifically approved by the department.

38 (8) “Escrow agent” means a bank or institution, including, but  
39 not limited to, a title insurance company, approved by the

1 department to hold and render accountings for deposits of cash or  
2 cash equivalents.

3 (f) “Facility” means any place or accommodation where a  
4 provider provides or will provide a resident with care or related  
5 services, whether or not the place or accommodation is constructed,  
6 owned, leased, rented, or otherwise contracted for by the provider.

7 (g) (reserved)

8 (h) (reserved)

9 (i) (1) “Inactive certificate of authority” means a certificate that  
10 has been terminated under Section 1793.8.

11 (2) “Investment securities” means any of the following:

12 (A) Direct obligations of the United States, including obligations  
13 issued or held in book-entry form on the books of the United States  
14 Department of the Treasury or obligations the timely payment of  
15 the principal of, and the interest on, which are fully guaranteed by  
16 the United States.

17 (B) Obligations, debentures, notes, or other evidences of  
18 indebtedness issued or guaranteed by any of the following:

19 (i) The Federal Home Loan Bank System.

20 (ii) The Export-Import Bank of the United States.

21 (iii) The Federal Financing Bank.

22 (iv) The Government National Mortgage Association.

23 (v) The Farmers Home Administration.

24 (vi) The Federal Home Loan Mortgage Corporation of the  
25 Federal Housing Administration.

26 (vii) Any agency, department, or other instrumentality of the  
27 United States if the obligations are rated in one of the two highest  
28 rating categories of each rating agency rating those obligations.

29 (C) Bonds of the State of California or of any county, city and  
30 county, or city in this state, if rated in one of the two highest rating  
31 categories of each rating agency rating those bonds.

32 (D) Commercial paper of finance companies and banking  
33 institutions rated in one of the two highest categories of each rating  
34 agency rating those instruments.

35 (E) Repurchase agreements fully secured by collateral security  
36 described in subparagraph (A) or (B), as evidenced by an opinion  
37 of counsel, if the collateral is held by the provider or a third party  
38 during the term of the repurchase agreement, pursuant to the terms  
39 of the agreement, subject to liens or claims of third parties, and

1 has a market value, which is determined at least every 14 days, at  
2 least equal to the amount so invested.

3 (F) Long-term investment agreements, which have maturity  
4 dates in excess of one year, with financial institutions, including,  
5 but not limited to, banks and insurance companies or their affiliates,  
6 if the financial institution's paying ability for debt obligations or  
7 long-term claims or the paying ability of a related guarantor of the  
8 financial institution for these obligations or claims, is rated in one  
9 of the two highest rating categories of each rating agency rating  
10 those instruments, or if the short-term investment agreements are  
11 with the financial institution or the related guarantor of the financial  
12 institution, the long-term or short-term debt obligations, whichever  
13 is applicable, of which are rated in one of the two highest long-term  
14 or short-term rating categories, of each rating agency rating the  
15 bonds of the financial institution or the related guarantor, provided  
16 that if the rating falls below the two highest rating categories, the  
17 investment agreement shall allow the provider the option to replace  
18 the financial institution or the related guarantor of the financial  
19 institution or shall provide for the investment securities to be fully  
20 collateralized by investments described in subparagraph (A), and,  
21 provided further, if so collateralized, that the provider has a  
22 perfected first security lien on the collateral, as evidenced by an  
23 opinion of counsel and the collateral is held by the provider.

24 (G) Banker's acceptances or certificates of deposit of, or time  
25 deposits in, any savings and loan association that meets any of the  
26 following criteria:

27 (i) The debt obligations of the savings and loan association, or  
28 in the case of a principal bank, of the bank holding company, are  
29 rated in one of the two highest rating categories of each rating  
30 agency rating those instruments.

31 (ii) The certificates of deposit or time deposits are fully insured  
32 by the Federal Deposit Insurance Corporation.

33 (iii) The certificates of deposit or time deposits are secured at  
34 all times, in the manner and to the extent provided by law, by  
35 collateral security described in subparagraph (A) or (B) with a  
36 market value, valued at least quarterly, of no less than the original  
37 amount of moneys so invested.

38 (H) Taxable money market government portfolios restricted to  
39 obligations issued or guaranteed as to payment of principal and  
40 interest by the full faith and credit of the United States.



1 (I) Obligations the interest on which is excluded from gross  
2 income for federal income tax purposes and money market mutual  
3 funds whose portfolios are restricted to these obligations, if the  
4 obligations or mutual funds are rated in one of the two highest  
5 rating categories by each rating agency rating those obligations.

6 (J) Bonds that are not issued by the United States or any federal  
7 agency, but that are listed on a national exchange and that are rated  
8 at least “A” by Moody’s Investors Service, or the equivalent rating  
9 by Standard and Poor’s Corporation or Fitch Investors Service.

10 (K) Bonds not listed on a national exchange that are traded on  
11 an over-the-counter basis, and that are rated at least “Aa” by  
12 Moody’s Investors Service or “AA” by Standard and Poor’s  
13 Corporation or Fitch Investors Service.

14 (j) (reserved)

15 (k) (reserved)

16 (l) “Life care contract” means a continuing care contract that  
17 includes a promise, expressed or implied, by a provider to provide  
18 or pay for routine services at all levels of care, including acute  
19 care and the services of physicians and surgeons, to the extent not  
20 covered by other public or private insurance benefits, to a resident  
21 for the duration of his or her life. Care shall be provided under a  
22 life care contract in a continuing care retirement community having  
23 a comprehensive continuum of care, including a skilled nursing  
24 facility, under the ownership and supervision of the provider on  
25 or adjacent to the premises. A change shall not be made in the  
26 monthly fee based on level of care. A life care contract shall also  
27 include provisions to subsidize residents who become financially  
28 unable to pay their monthly care fees.

29 (m) (1) “Monthly care fee” means the fee charged to a resident  
30 in a continuing care contract on a monthly or other periodic basis  
31 for current accommodations and services, including care, board,  
32 or lodging. Periodic entrance fee payments or other prepayments  
33 shall not be monthly care fees.

34 (2) “Monthly fee contract” means a continuing care contract  
35 that requires residents to pay monthly care fees.

36 (n) “Nonambulatory person” means a person who is unable to  
37 leave a building unassisted under emergency conditions in the  
38 manner described by Section 13131.

39 (o) (reserved)

1 (p) (1) “Per capita cost” means a continuing care retirement  
2 community’s operating expenses, excluding depreciation, divided  
3 by the average number of residents.

4 (2) “Periodic charges” means fees paid by a resident on a  
5 periodic basis.

6 (3) “Permanent closure” means the voluntary or involuntary  
7 termination or forfeiture, as specified in subdivisions (a), (b), (g),  
8 (h), and (i) of Section 1793.7, of a provider’s certificate of authority  
9 or license, or another action that results in the permanent relocation  
10 of residents. Permanent closure does not apply in the case of a  
11 natural disaster or other event out of the provider’s control.

12 (4) “Permit to accept deposits” means a written authorization  
13 by the department permitting an applicant to enter into deposit  
14 agreements regarding a single specified continuing care retirement  
15 community.

16 (5) “Prepaid contract” means a continuing care contract in which  
17 the monthly care fee, if any, may not be adjusted to cover the actual  
18 cost of care and services.

19 (6) “Preferred access” means that residents who have previously  
20 occupied a residential living unit have a right over other persons  
21 to any assisted living or skilled nursing beds that are available at  
22 the community.

23 (7) “Processing fee” means a payment to cover administrative  
24 costs of processing the application of a depositor or prospective  
25 resident.

26 (8) “Promise to provide one or more elements of care” means  
27 any expressed or implied representation that one or more elements  
28 of care will be provided or will be available, such as by preferred  
29 access.

30 (9) “Proposes” means a representation that an applicant or  
31 provider will or intends to make a future promise to provide care,  
32 including a promise that is subject to a condition, such as the  
33 construction of a continuing care retirement community or the  
34 acquisition of a certificate of authority.

35 (10) “Provider” means an entity that provides continuing care,  
36 makes a continuing care promise, or proposes to promise to provide  
37 continuing care. “Provider” also includes any entity that controls  
38 an entity that provides continuing care, makes a continuing care  
39 promise, or proposes to promise to provide continuing care. The  
40 department shall determine whether an entity controls another

1 entity for purposes of this article. No homeowner's association,  
2 cooperative, or condominium association may be a provider.

3 (11) "Provisional certificate of authority" means the certificate  
4 issued by the department, properly executed and bearing the State  
5 Seal, under Section 1786. A provisional certificate of authority  
6 shall be limited to the specific continuing care retirement  
7 community and number of units identified in the applicant's  
8 application.

9 (q) (reserved)

10 (r) (1) "Refund reserve" means the reserve a provider is required  
11 to maintain, as provided in Section 1792.6.

12 (2) ~~(A)~~ "Refundable contract" means a continuing care contract  
13 that includes a promise, expressed or implied, by the provider to  
14 pay an entrance fee refund or to repurchase the transferor's unit,  
15 membership, stock, or other interest in the continuing care  
16 retirement community when the promise to refund some or all of  
17 the initial entrance fee extends beyond the resident's sixth year of  
18 residency. Providers that enter into refundable contracts shall be  
19 subject to the refund reserve requirements of Section 1792.6.

20 ~~(B)~~ ~~A~~

21 (3) "*Repayable contract*" means a continuing care contract that  
22 includes a promise to repay all or a portion of an entrance fee that  
23 is conditioned upon reoccupancy or resale of the unit previously  
24 occupied by the ~~resident~~ resident. A *repayable contract* shall not  
25 be considered a refundable contract for purposes of the refund  
26 reserve requirements of Section 1792.6, provided that this  
27 conditional promise of repayment is not referred to by the applicant  
28 or provider as a "refund." A provider may repay all or a portion  
29 of an entrance fee that is conditioned upon resale of the unit before  
30 the resale of the unit. The repayment of an entrance fee before the  
31 resale of the unit shall not cause any other entrance fee to be subject  
32 to the refund reserve requirements of Section 1792.6, provided  
33 that the provider does not promise, at the time of contracting or  
34 thereafter, to make this type of early repayment, represent that the  
35 provider intends to make this type of early repayment, or indicate  
36 that the provider has a practice of making this type of early  
37 repayment.

38 ~~(3)~~

39 (4) "Resale fee" means a levy by the provider against the  
40 proceeds from the sale of a transferor's equity interest.

1     ~~(4)~~

2     (5) “Reservation fee” refers to consideration collected by an  
3     entity that has made a continuing care promise or is proposing to  
4     make this promise and has complied with Section 1771.4.

5     ~~(5)~~

6     (6) “Resident” means a person who enters into a continuing  
7     care contract with a provider, or who is designated in a continuing  
8     care contract to be a person being provided or to be provided  
9     services, including care, board, or lodging.

10    ~~(6)~~

11    (7) “Residential care facility for the elderly” means a housing  
12    arrangement as defined by Section 1569.2.

13    ~~(7)~~

14    (8) “Residential living unit” means a living unit in a continuing  
15    care retirement community that is not used exclusively for assisted  
16    living services or nursing services.

17    ~~(8)~~

18    (9) “Residential temporary relocation” means the relocation of  
19    one or more residents, except in the case of a natural disaster that  
20    is out of the provider’s control, from one or more residential living  
21    units, assisted living units, skilled nursing units, or a wing, floor,  
22    or entire continuing care retirement community building, due to a  
23    change of use or major repairs or renovations. A residential  
24    temporary relocation shall mean a relocation pursuant to this  
25    subdivision that lasts for a period of at least 9 months but that does  
26    not exceed 18 months without the written agreement of the resident.

27    (s) (reserved)

28    (t) (1) “Termination” means the ending of a continuing care  
29    contract as provided for in the terms of the continuing care contract.

30    (2) “Transfer trauma” means death, depression, or regressive  
31    behavior, that is caused by the abrupt and involuntary transfer of  
32    an elderly resident from one home to another and results from a  
33    loss of familiar physical environment, loss of well-known  
34    neighbors, attendants, nurses and medical personnel, the stress of  
35    an abrupt break in the small routines of daily life, or the loss of  
36    visits from friends and relatives who may be unable to reach the  
37    new facility.

38    (3) “Transferor” means a person who transfers, or promises to  
39    transfer, consideration in exchange for care and related services  
40    under a continuing care contract or proposed continuing care

1 contract, for the benefit of another. A transferor shall have the  
2 same rights to cancel and obtain a refund as the depositor under  
3 the deposit agreement or the resident under a continuing care  
4 contract.

5 SEC. 2. Section 1788 of the Health and Safety Code is amended  
6 to read:

7 1788. (a) A continuing care contract shall contain all of the  
8 following:

9 (1) The legal name and address of each provider.

10 (2) The name and address of the continuing care retirement  
11 community.

12 (3) The resident's name and the identity of the unit the resident  
13 will occupy.

14 (4) If there is a transferor other than the resident, the transferor  
15 shall be a party to the contract and the transferor's name and  
16 address shall be specified.

17 (5) If the provider has used the name of any charitable or  
18 religious or nonprofit organization in its title before January 1,  
19 1979, and continues to use that name, and that organization is not  
20 responsible for the financial and contractual obligations of the  
21 provider or the obligations specified in the continuing care contract,  
22 the provider shall include in every continuing care contract a  
23 conspicuous statement that clearly informs the resident that the  
24 organization is not financially responsible.

25 (6) The date the continuing care contract is signed by the  
26 resident and, where applicable, any other transferor.

27 (7) The duration of the continuing care contract.

28 (8) A list of the services that will be made available to the  
29 resident as required to provide the appropriate level of care. The  
30 list of services shall include the services required as a condition  
31 for licensure as a residential care facility for the elderly, including  
32 all of the following:

33 (A) Regular observation of the resident's health status to ensure  
34 that his or her dietary needs, social needs, and needs for special  
35 services are satisfied.

36 (B) Safe and healthful living accommodations, including  
37 housekeeping services and utilities.

38 (C) Maintenance of house rules for the protection of residents.

1 (D) A planned activities program, which includes social and  
2 recreational activities appropriate to the interests and capabilities  
3 of the resident.

4 (E) Three balanced, nutritious meals and snacks made available  
5 daily, including special diets prescribed by a physician as a medical  
6 necessity.

7 (F) Assisted living services.

8 (G) Assistance with taking medications.

9 (H) Central storing and distribution of medications.

10 (I) Arrangements to meet health needs, including arranging  
11 transportation.

12 (9) An itemization of the services that are included in the  
13 monthly fee and the services that are available at an extra charge.  
14 The provider shall attach a current fee schedule to the continuing  
15 care contract. The schedule shall state that a provider is prohibited  
16 from charging the resident or his or her estate a monthly fee once  
17 a unit has been permanently vacated by the resident, unless the fee  
18 is part of an equity interest contract.

19 (10) The procedures and conditions under which a resident may  
20 be voluntarily and involuntarily transferred from a designated  
21 living unit. The transfer procedures, at a minimum, shall include  
22 provisions addressing all of the following circumstances under  
23 which a transfer may be authorized:

24 (A) A continuing care retirement community may transfer a  
25 resident under the following conditions, taking into account the  
26 appropriateness and necessity of the transfer and the goal of  
27 promoting resident independence:

28 (i) The resident is nonambulatory. The definition of  
29 “nonambulatory,” as provided in Section 13131, shall either be  
30 stated in full in the continuing care contract or be cited. If Section  
31 13131 is cited, a copy of the statute shall be made available to the  
32 resident, either as an attachment to the continuing care contract or  
33 by specifying that it will be provided upon request. If a  
34 nonambulatory resident occupies a room that has a fire clearance  
35 for nonambulatory residents, transfer shall not be necessary.

36 (ii) The resident develops a physical or mental condition that  
37 endangers the health, safety, or well-being of the resident or another  
38 person.

39 (iii) The resident’s condition or needs require the resident’s  
40 transfer to an assisted living care unit or skilled nursing facility,

1 because the level of care required by the resident exceeds that  
2 which may be lawfully provided in the living unit.

3 (iv) The resident's condition or needs require the resident's  
4 transfer to a nursing facility, hospital, or other facility, and the  
5 provider has no facilities available to provide that level of care.

6 (B) Before the continuing care retirement community transfers  
7 a resident under any of the conditions set forth in subparagraph  
8 (A), the community shall satisfy all of the following requirements:

9 (i) Involve the resident and the resident's responsible person,  
10 as defined in paragraph (6) of subdivision (r) of Section 87101 of  
11 Title 22 of the California Code of Regulations, and upon the  
12 resident's or responsible person's request, family members, or the  
13 resident's physician or other appropriate health professional, in  
14 the assessment process that forms the basis for the level of care  
15 transfer decision by the provider. The provider shall offer an  
16 explanation of the assessment process. If an assessment tool or  
17 tools, including scoring and evaluating criteria, are used in the  
18 determination of the appropriateness of the transfer, the provider  
19 shall make copies of the completed assessment available upon the  
20 request of the resident or the resident's responsible person.

21 (ii) Prior to sending a formal notification of transfer, the provider  
22 shall conduct a care conference with the resident and the resident's  
23 responsible person, and upon the resident's or responsible person's  
24 request, family members, and the resident's health care  
25 professionals, to explain the reasons for transfer.

26 (iii) Notify the resident and the resident's responsible person  
27 of the reasons for the transfer in writing.

28 (iv) Notwithstanding any other provision of this subparagraph,  
29 if the resident does not have impairment of cognitive abilities, the  
30 resident may request that his or her responsible person not be  
31 involved in the transfer process.

32 (v) The notice of transfer shall be made at least 30 days before  
33 the transfer is expected to occur, except when the health or safety  
34 of the resident or other residents is in danger, or the transfer is  
35 required by the resident's urgent medical needs. Under those  
36 circumstances, the written notice shall be made as soon as  
37 practicable before the transfer.

38 (vi) The written notice shall contain the reasons for the transfer,  
39 the effective date, the designated level of care or location to which  
40 the resident will be transferred, a statement of the resident's right

1 to a review of the transfer decision at a care conference, as provided  
2 for in subparagraph (C), and for disputed transfer decisions, the  
3 right to review by the Continuing Care Contracts Branch of the  
4 State Department of Social Services, as provided for in  
5 subparagraph (D). The notice shall also contain the name, address,  
6 and telephone number of the department's Continuing Care  
7 Contracts Branch.

8 (vii) The continuing care retirement community shall provide  
9 sufficient preparation and orientation to the resident to ensure a  
10 safe and orderly transfer and to minimize trauma.

11 (C) The resident has the right to review the transfer decision at  
12 a subsequent care conference that shall include the resident, the  
13 resident's responsible person, and upon the resident's or  
14 responsible person's request, family members, the resident's  
15 physician or other appropriate health care professional, and  
16 members of the provider's interdisciplinary team. The local  
17 ombudsperson may also be included in the care conference, upon  
18 the request of the resident, the resident's responsible person, or  
19 the provider.

20 (D) For disputed transfer decisions, the resident or the resident's  
21 responsible person has the right to a prompt and timely review of  
22 the transfer process by the Continuing Care Contracts Branch of  
23 the State Department of Social Services.

24 (E) The decision of the department's Continuing Care Contracts  
25 Branch shall be in writing and shall determine whether the provider  
26 failed to comply with the transfer process pursuant to  
27 subparagraphs (A) to (C), inclusive. Pending the decision of the  
28 Continuing Care Contracts Branch, the provider shall specify any  
29 additional care the provider believes is necessary in order for the  
30 resident to remain in his or her unit. The resident may be required  
31 to pay for the extra care, as provided in the contract.

32 (F) Transfer of a second resident when a shared accommodation  
33 arrangement is terminated.

34 (11) Provisions describing any changes in the resident's monthly  
35 fee and any changes in the entrance fee refund payable to the  
36 resident that will occur if the resident transfers from any unit,  
37 including, but not limited to, terminating his or her contract after  
38 18 months of residential temporary relocation, as defined in  
39 paragraph (8) of subdivision (r) of Section 1771. Unless the fee is  
40 part of an equity interest contract, a provider is prohibited from



1 charging the resident or his or her estate a monthly fee once a unit  
2 has been permanently vacated by the resident.

3 (12) The provider's continuing obligations, if any, in the event  
4 a resident is transferred from the continuing care retirement  
5 community to another facility.

6 (13) The provider's obligations, if any, to resume care upon the  
7 resident's return after a transfer from the continuing care retirement  
8 community.

9 (14) The provider's obligations to provide services to the  
10 resident while the resident is absent from the continuing care  
11 retirement community.

12 (15) The conditions under which the resident must permanently  
13 release his or her living unit.

14 (16) If real or personal properties are transferred in lieu of cash,  
15 a statement specifying each item's value at the time of transfer,  
16 and how the value was ascertained.

17 (A) An itemized receipt that includes the information described  
18 above is acceptable if incorporated as a part of the continuing care  
19 contract.

20 (B) When real property is or will be transferred, the continuing  
21 care contract shall include a statement that the deed or other  
22 instrument of conveyance shall specify that the real property is  
23 conveyed pursuant to a continuing care contract and may be subject  
24 to rescission by the transferor within 90 days from the date that  
25 the resident first occupies the residential unit.

26 (C) The failure to comply with this paragraph shall not affect  
27 the validity of title to real property transferred pursuant to this  
28 chapter.

29 (17) The amount of the entrance fee.

30 (18) In the event two parties have jointly paid the entrance fee  
31 or other payment that allows them to occupy the unit, the  
32 continuing care contract shall describe how any refund of entrance  
33 fees is allocated.

34 (19) The amount of any processing fee.

35 (20) The amount of any monthly care fee.

36 (21) For continuing care contracts that require a monthly care  
37 fee or other periodic payment, the continuing care contract shall  
38 include the following:

1 (A) A statement that the occupancy and use of the  
2 accommodations by the resident is contingent upon the regular  
3 payment of the fee.

4 (B) The regular rate of payment agreed upon (per day, week,  
5 or month).

6 (C) A provision specifying whether payment will be made in  
7 advance or after services have been provided.

8 (D) A provision specifying the provider will adjust monthly  
9 care fees for the resident's support, maintenance, board, or lodging,  
10 when a resident requires medical attention while away from the  
11 continuing care retirement community.

12 (E) A provision specifying whether a credit or allowance will  
13 be given to a resident who is absent from the continuing care  
14 retirement community or from meals. This provision shall also  
15 state, when applicable, that the credit may be permitted at the  
16 discretion or by special permission of the provider.

17 (F) A statement of billing practices, procedures, and timelines.  
18 A provider shall allow a minimum of 14 days between the date a  
19 bill is sent and the date payment is due. A charge for a late payment  
20 may only be assessed if the amount and any condition for the  
21 penalty is stated on the bill.

22 (G) A statement that the provider is prohibited from charging  
23 the resident or his or her estate a monthly fee once a unit has been  
24 permanently vacated by the resident, unless the fee is part of an  
25 equity interest contract.

26 (22) All continuing care contracts that include monthly care  
27 fees shall address changes in monthly care fees by including either  
28 of the following provisions:

29 (A) For prepaid continuing care contracts, which include  
30 monthly care fees, one of the following methods:

31 (i) Fees shall not be subject to change during the lifetime of the  
32 agreement.

33 (ii) Fees shall not be increased by more than a specified number  
34 of dollars in any one year and not more than a specified number  
35 of dollars during the lifetime of the agreement.

36 (iii) Fees shall not be increased in excess of a specified  
37 percentage over the preceding year and not more than a specified  
38 percentage during the lifetime of the agreement.

1 (B) For monthly fee continuing care contracts, except prepaid  
2 contracts, changes in monthly care fees shall be based on projected  
3 costs, prior year per capita costs, and economic indicators.

4 (23) A provision requiring that the provider give written notice  
5 to the resident at least 30 days in advance of any change in the  
6 resident's monthly care fees or in the price or scope of any  
7 component of care or other services.

8 (24) A provision indicating whether the resident's rights under  
9 the continuing care contract include any proprietary interests in  
10 the assets of the provider or in the continuing care retirement  
11 community, or both. Any statement in a contract concerning an  
12 ownership interest shall appear in a large-sized font or print.

13 (25) If the continuing care retirement community property is  
14 encumbered by a security interest that is senior to any claims the  
15 residents may have to enforce continuing care contracts, a provision  
16 shall advise the residents that any claims they may have under the  
17 continuing care contract are subordinate to the rights of the secured  
18 lender. For equity projects, the continuing care contract shall  
19 specify the type and extent of the equity interest and whether any  
20 entity holds a security interest.

21 (26) Notice that the living units are part of a continuing care  
22 retirement community that is licensed as a residential care facility  
23 for the elderly and, as a result, any duly authorized agent of the  
24 department may, upon proper identification and upon stating the  
25 purpose of his or her visit, enter and inspect the entire premises at  
26 any time, without advance notice.

27 (27) A conspicuous statement, in at least 10-point boldface type  
28 in immediate proximity to the space reserved for the signatures of  
29 the resident and, if applicable, the transferor, that provides as  
30 follows: "You, the resident or transferor, may cancel the transaction  
31 without cause at any time within 90 days from the date you first  
32 occupy your living unit. See the attached notice of cancellation  
33 form for an explanation of this right."

34 (28) Notice that during the cancellation period, the continuing  
35 care contract may be canceled upon 30 days' written notice by the  
36 provider without cause, or that the provider waives this right.

37 (29) The terms and conditions under which the continuing care  
38 contract may be terminated after the cancellation period by either  
39 party, including any health or financial conditions.

1 (30) A statement that, after the cancellation period, a provider  
2 may unilaterally terminate the continuing care contract only if the  
3 provider has good and sufficient cause.

4 (A) Any continuing care contract containing a clause that  
5 provides for a continuing care contract to be terminated for “just  
6 cause,” “good cause,” or other similar provision, shall also include  
7 a provision that none of the following activities by the resident,  
8 or on behalf of the resident, constitutes “just cause,” “good cause,”  
9 or otherwise activates the termination provision:

10 (i) Filing or lodging a formal complaint with the department or  
11 other appropriate authority.

12 (ii) Participation in an organization or affiliation of residents,  
13 or other similar lawful activity.

14 (B) The provision required by this paragraph shall also state  
15 that the provider shall not discriminate or retaliate in any manner  
16 against any resident of a continuing care retirement community  
17 for contacting the department, or any other state, county, or city  
18 agency, or any elected or appointed government official to file a  
19 complaint or for any other reason, or for participation in a residents’  
20 organization or association.

21 (C) Nothing in this paragraph diminishes the provider’s ability  
22 to terminate the continuing care contract for good and sufficient  
23 cause.

24 (31) A statement that at least 90 days’ written notice to the  
25 resident is required for a unilateral termination of the continuing  
26 care contract by the provider.

27 (32) A statement concerning the length of notice that a resident  
28 is required to give the provider to voluntarily terminate the  
29 continuing care contract after the cancellation period.

30 (33) The policy or terms for refunding or repaying a lump sum  
31 of any portion of the entrance fee, in the event of cancellation,  
32 termination, or death. Every continuing care contract that provides  
33 for a refund or repaying a lump sum of all or a part of the entrance  
34 fee shall also do all of the following:

35 (A) Specify the amount, if any, the resident has paid or will pay  
36 for upgrades, special features, or modifications to the resident’s  
37 unit.

38 (B) State that if the continuing care contract is canceled or  
39 terminated by the provider, the provider shall do both of the  
40 following:

1 (i) Amortize the specified amount at the same rate as the  
2 resident's entrance fee.

3 (ii) Refund the unamortized balance to the resident at the same  
4 time the provider pays the resident's entrance fee refund.

5 (C) State that the resident has a right to terminate his or her  
6 contract after 18 months of residential temporary relocation, as  
7 defined in paragraph (8) of subdivision (r) of Section 1771.  
8 Provisions for refunds due to cancellation pursuant to this  
9 subparagraph shall be set forth in the contract.

10 (D) State the provider shall make a good-faith effort to reoccupy  
11 or resell a unit for which a lump-sum payment is conditioned upon  
12 resale of the unit. No later than July 1, 2017, a provider shall  
13 provide notice to all current residents with contracts applicable to  
14 this subparagraph regarding the statement required by this  
15 subparagraph as a clarification of the resident's existing contract.

16 (E) For all contracts with a repayment of all or a portion of the  
17 entrance fee conditioned upon the resale of the unit, the provider  
18 shall state the average and longest amount of time that it has taken  
19 to resell a unit within the last five calendar years.

20 (34) The following notice at the bottom of the signatory page:

21  
22 "NOTICE"

(date)

23  
24 "This is a continuing care contract as defined by paragraph (8)  
25 of subdivision (c), or subdivision (l) of Section 1771 of the  
26 California Health and Safety Code. This continuing care contract  
27 form has been approved by the State Department of Social Services  
28 as required by subdivision (b) of Section 1787 of the California  
29 Health and Safety Code. The basis for this approval was a  
30 determination that (provider name) has submitted a contract that  
31 complies with the minimum statutory requirements applicable to  
32 continuing care contracts. The department does not approve or  
33 disapprove any of the financial or health care coverage provisions  
34 in this contract. Approval by the department is NOT a guaranty  
35 of performance or an endorsement of any continuing care contract  
36 provisions. Prospective transferors and residents are strongly  
37 encouraged to carefully consider the benefits and risks of this  
38 continuing care contract and to seek financial and legal advice  
39 before signing."

(35) The provider may not attempt to absolve itself in the continuing care contract from liability for its negligence by any statement to that effect, and shall include the following statement in the contract: “Nothing in this continuing care contract limits either the provider’s obligation to provide adequate care and supervision for the resident or any liability on the part of the provider which may result from the provider’s failure to provide this care and supervision.”

(36) Provisions describing how the provider will proceed in the event of a closure, including an explanation of how the provider will comply with Sections 1793.80, 1793.81, 1793.82, and 1793.83.

(b) A life care contract shall also provide that:

(1) All levels of care, including acute care and physicians’ and surgeons’ services, will be provided to a resident.

(2) Care will be provided for the duration of the resident’s life unless the life care contract is canceled or terminated by the provider during the cancellation period or after the cancellation period for good cause.

(3) A comprehensive continuum of care will be provided to the resident, including skilled nursing, in a facility under the ownership and supervision of the provider on, or adjacent to, the continuing care retirement community premises.

(4) Monthly care fees will not be changed based on the resident’s level of care or service.

(5) A resident who becomes financially unable to pay his or her monthly care fees shall be subsidized provided the resident’s financial need does not arise from action by the resident to divest the resident of his or her assets.

(c) Continuing care contracts may include provisions that do any of the following:

(1) Subsidize a resident who becomes financially unable to pay for his or her monthly care fees at some future date. If a continuing care contract provides for subsidizing a resident, it may also provide for any of the following:

(A) The resident shall apply for any public assistance or other aid for which he or she is eligible and that the provider may apply for assistance on behalf of the resident.

(B) The provider’s decision shall be final and conclusive regarding any adjustments to be made or any action to be taken

1 regarding any charitable consideration extended to any of its  
2 residents.

3 (C) The provider is entitled to payment for the actual costs of  
4 care out of any property acquired by the resident subsequent to  
5 any adjustment extended to the resident under this paragraph, or  
6 from any other property of the resident that the resident failed to  
7 disclose.

8 (D) The provider may pay the monthly premium of the resident's  
9 health insurance coverage under Medicare to ensure that those  
10 payments will be made.

11 (E) The provider may receive an assignment from the resident  
12 of the right to apply for and to receive the benefits, for and on  
13 behalf of the resident.

14 (F) The provider is not responsible for the costs of furnishing  
15 the resident with any services, supplies, and medication, when  
16 reimbursement is reasonably available from any governmental  
17 agency, or any private insurance.

18 (G) Any refund due to the resident at the termination of the  
19 continuing care contract may be offset by any prior subsidy to the  
20 resident by the provider.

21 (2) Limit responsibility for costs associated with the treatment  
22 or medication of an ailment or illness existing prior to the date of  
23 admission. In these cases, the medical or surgical exceptions, as  
24 disclosed by the medical entrance examination, shall be listed in  
25 the continuing care contract or in a medical report attached to and  
26 made a part of the continuing care contract.

27 (3) Identify legal remedies that may be available to the provider  
28 if the resident makes any material misrepresentation or omission  
29 pertaining to the resident's assets or health.

30 (4) Restrict transfer or assignments of the resident's rights and  
31 privileges under a continuing care contract due to the personal  
32 nature of the continuing care contract.

33 (5) Protect the provider's ability to waive a resident's breach  
34 of the terms or provisions of the continuing care contract in specific  
35 instances without relinquishing its right to insist upon full  
36 compliance by the resident with all terms or provisions in the  
37 contract.

38 (6) Provide that the resident shall reimburse the provider for  
39 any uninsured loss or damage to the resident's unit, beyond normal

1 wear and tear, resulting from the resident's carelessness or  
2 negligence.

3 (7) Provide that the resident agrees to observe the off-limit areas  
4 of the continuing care retirement community designated by the  
5 provider for safety reasons. The provider may not include any  
6 provision in a continuing care contract that absolves the provider  
7 from liability for its negligence.

8 (8) Provide for the subrogation to the provider of the resident's  
9 rights in the case of injury to a resident caused by the acts or  
10 omissions of a third party, or for the assignment of the resident's  
11 recovery or benefits in this case to the provider, to the extent of  
12 the value of the goods and services furnished by the provider to  
13 or on behalf of the resident as a result of the injury.

14 (9) Provide for a lien on any judgment, settlement, or recovery  
15 for any additional expense incurred by the provider in caring for  
16 the resident as a result of injury.

17 (10) Require the resident's cooperation and assistance in the  
18 diligent prosecution of any claim or action against any third party.

19 (11) Provide for the appointment of a conservator or guardian  
20 by a court with jurisdiction in the event a resident becomes unable  
21 to handle his or her personal or financial affairs.

22 (12) Allow a provider, whose property is tax exempt, to charge  
23 the resident, on a pro rata basis, property taxes, or in-lieu taxes,  
24 that the provider is required to pay.

25 (13) Make any other provision approved by the department.

26 (d) A copy of the resident's rights as described in Section 1771.7  
27 shall be attached to every continuing care contract.

28 (e) A copy of the current audited financial statement of the  
29 provider shall be attached to every continuing care contract. For  
30 a provider whose current audited financial statement does not  
31 accurately reflect the financial ability of the provider to fulfill the  
32 continuing care contract obligations, the financial statement  
33 attached to the continuing care contract shall include all of the  
34 following:

35 (1) A disclosure that the reserve requirement has not yet been  
36 determined or met, and that entrance fees will not be held in  
37 escrow.

38 (2) A disclosure that the ability to provide the services promised  
39 in the continuing care contract will depend on successful  
40 compliance with the approved financial plan.



1 (3) A copy of the approved financial plan for meeting the reserve  
2 requirements.

3 (4) Any other supplemental statements or attachments necessary  
4 to accurately represent the provider's financial ability to fulfill its  
5 continuing care contract obligations.

6 (f) A schedule of the average monthly care fees charged to  
7 residents for each type of residential living unit for each of the five  
8 years preceding execution of the continuing care contract shall be  
9 attached to every continuing care contract. The provider shall  
10 update this schedule annually at the end of each fiscal year. If the  
11 continuing care retirement community has not been in existence  
12 for five years, the information shall be provided for each of the  
13 years the continuing care retirement community has been in  
14 existence.

15 (g) If any continuing care contract provides for a health  
16 insurance policy for the benefit of the resident, the provider shall  
17 attach to the continuing care contract a binder complying with  
18 Sections 382 and 382.5 of the Insurance Code.

19 (h) The provider shall attach to every continuing care contract  
20 a completed form in duplicate, captioned "Notice of Cancellation."  
21 The notice shall be easily detachable, and shall contain, in at least  
22 10-point boldface type, the following statement:

23  
24 "NOTICE OF CANCELLATION" (date)  
25 Your first date of occupancy under this contract  
26 is: \_\_\_\_\_  
27

28 "You may cancel this transaction, without any penalty within  
29 90 calendar days from the above date.

30 If you cancel, any property transferred, any payments made by  
31 you under the contract, and any negotiable instrument executed  
32 by you will be returned within 14 calendar days after making  
33 possession of the living unit available to the provider. Any security  
34 interest arising out of the transaction will be canceled.

35 If you cancel, you are obligated to pay a reasonable processing  
36 fee to cover costs and to pay for the reasonable value of the services  
37 received by you from the provider up to the date you canceled or  
38 made available to the provider the possession of any living unit  
39 delivered to you under this contract, whichever is later.

1 If you cancel, you must return possession of any living unit  
2 delivered to you under this contract to the provider in substantially  
3 the same condition as when you took possession.

4 Possession of the living unit must be made available to the  
5 provider within 20 calendar days of your notice of cancellation.  
6 If you fail to make the possession of any living unit available to  
7 the provider, then you remain liable for performance of all  
8 obligations under the contract.

9 To cancel this transaction, mail or deliver a signed and dated  
10 copy of this cancellation notice, or any other written notice, or  
11 send a telegram

12  
13 to \_\_\_\_\_  
14 (Name of provider)

15 at \_\_\_\_\_  
16 (Address of provider's place of business)

17 not later than midnight of \_\_\_\_\_ (date).

18 I hereby cancel this  
19 transaction

\_\_\_\_\_  
20 (Resident's or  
21 Transferor's signature)"  
22

23 SEC. 3. Section 1788.4 of the Health and Safety Code is  
24 amended to read:

25 1788.4. (a) During the cancellation period, the provider shall  
26 pay all refunds owed to a resident within 14 calendar days after a  
27 resident makes possession of the living unit available to the  
28 provider.

29 (b) After the cancellation period, any refunds due to a resident  
30 under a continuing care contract shall be paid within 14 calendar  
31 days after a resident makes possession of the living unit available  
32 to the provider or 90 calendar days after death or receipt of notice  
33 of termination, whichever is later.

34 (c) In nonequity projects, if the continuing care contract is  
35 canceled by either party during the cancellation period or  
36 terminated by the provider after the cancellation period, the resident  
37 shall be refunded the difference between the total amount of  
38 entrance, monthly, and optional fees paid and the amount used for  
39 care of the resident.

(d) If a resident has paid additional amounts for upgrades, special features, or modifications to the living unit and the provider terminates the resident's continuing care contract, the provider shall amortize those additional amounts at the same rate as the entrance fee and shall refund the unamortized balance to the resident.

(e) A lump-sum payment to a resident after termination of a ~~continuing care~~ *repayable* contract that is conditioned upon resale of the unit shall not be considered to be a refund and may not be characterized or advertised as a refund. The full lump sum owed, including any interest accrued, shall be paid to the resident within 14 calendar days after resale of the unit.

~~(f) (1) For contracts signed on and after January 1, 2017, notwithstanding a provider's documented good-faith effort to resell the unit, the resident is entitled to the repayment of a specified portion, pursuant to subparagraphs (A) and (B), of the full lump sum owed if the unit remains vacant 120 days after the resident's termination of the contract. This repayment shall not cause the contract in question to be deemed a refundable contract, as defined in paragraph (2) of subdivision (r) of Section 1771.~~

~~(A) When a continuing care contract is terminated by the death of a resident, at least 10 percent of the full lump sum owed shall be paid to the resident's estate within 120 days after the death of the resident.~~

~~(B) When a continuing care contract is terminated for a reason not described in subparagraph (A), at least 20 percent of the full lump sum owed shall be paid to the resident within 120 days after the resident's termination of the contract.~~

~~(2)–~~

~~(f) (1) Any balance of the lump sum owed that has not been paid to the resident within 180 days after the resident's termination of a repayable contract shall accrue interest at a rate calculated pursuant to paragraph (3). (2) Any balance of the lump sum owed that has not been paid to the resident within 240 days after the resident's termination of a repayable contract shall accrue interest at a rate calculated pursuant to paragraph (4). (3) Interest shall continue to accrue annually pursuant to paragraph (5) (4) until the date the full lump sum owed is paid to the resident. This paragraph subdivision shall apply only to continuing care repayable contracts entered into on or after January 1, 2017.~~

1     ~~(3)~~

2     (2) Any amount owed that is not paid to the resident within the  
3 180-day period pursuant to paragraph~~(2)~~ (1) shall accrue simple  
4 interest at a rate of 4 percent of the amount owed.

5     ~~(4)~~

6     (3) Any amount owed that is not paid to the resident within the  
7 240-day period pursuant to paragraph~~(2)~~ (1) shall accrue simple  
8 interest at a rate of 6 percent of the amount owed.

9     ~~(5)~~

10    (4) Any amount owed that is not paid to the resident within one  
11 year after the 240-day period pursuant to paragraph~~(4)~~ (3) shall  
12 accrue compound interest annually at a rate of 6 percent.

13    ~~(6) Until January 1, 2018, this subdivision shall not apply to a~~  
14 ~~project that is in development prior to January 1, 2017, including~~  
15 ~~current repayable agreements, current deposit agreements that~~  
16 ~~contemplate repayable entrance fees, and other projects that have~~  
17 ~~received department approval to market units pursuant to Section~~  
18 ~~1771.4, or have received issuer, lender, or bond insurer approval~~  
19 ~~to obtain bond financing, or other governmental approval based~~  
20 ~~on a repayable entrance fee option, if the initial contract for the~~  
21 ~~project is entered into on or before January 1, 2018.~~

22    (g) (1) After the death of a resident, a lump sum owed that is  
23 conditioned upon resale of a unit shall be subject to subdivision  
24 (f) and the lump sum owed shall include any interest accrued and  
25 shall be payable to the resident's estate.

26    (2) Until January 1, 2018, this subdivision shall not apply to a  
27 project that is in development prior to January 1, 2017, including  
28 current repayable agreements, current deposit agreements that  
29 contemplate repayable entrance fees, and other projects that have  
30 received department approval to market units pursuant to Section  
31 1771.4, or have received issuer, lender, or bond insurer approval  
32 to obtain bond financing, or other governmental approval based  
33 on a repayable entrance fee option, if the initial contract for the  
34 project is entered into on or before January 1, 2018.

35    (h) Except as otherwise obligated by an equity interest contract,  
36 once the unit has been vacated and made available to the provider,  
37 the provider shall not make any further charges to the resident or  
38 his or her estate or charges against the lump sum owed to the  
39 resident for purposes of continued monthly payments to the  
40 provider or for maintenance or housekeeping on the vacated unit.

- 1     (i) Nothing in this section shall be construed to limit or alter
- 2     any legal remedies otherwise available to a resident or his or her
- 3     estate.

O